

Internal Revenue Service

Department of the Treasury

District
Director

Date: FEB 18 1987

Person to Contact:

Contact Telephone Number:

Refer Reply to:

CERTIFIED MAIL

Dear Applicant:

We have considered your application for tax-exempt status under section 501(c)(3) of the Internal Revenue Code.

The evidence presented disclosed that your trust agreement was entered into in [REDACTED] on [REDACTED].

The purposes for which the Trust was formed are as follows:

"This Trust is created exclusively for the purpose of establishing a scholarship program for deserving high school seniors. The trustees shall apply the proceeds of this trust to defraying reasonable education costs for students who possess the ability and talent to benefit from a college education, but who do not have the total financial means to pay for said college education. In awarding scholarships, the trustees shall give absolute preference to the children of the nephews and nieces of the late [REDACTED].

Those nieces and nephews are: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]."

Your activities consist of selecting and screening scholarship recipients. Your income will be derived from investments from donations received from [REDACTED].

Section 501(c)(3) of the Code provides, in part, for the exemption from Federal income tax of organizations organized and operated exclusively for charitable, religious, scientific or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

In order to qualify under IRC 501(c)(3), an organization must be both "organized" and "operated" exclusively for one or more purposes specified in that section. If the organization fails to meet either the organizational test or the operational test, it is not exempt. (Regs. 1.501(c)(3)-1(a)(1)). The organizational test relates to the rules for governing an organization and the purposes stated in its articles of organization. The operational test relates to the organization's activities.

Section 1.501(c)(3)-1(c)(1) of the Regulations states that if more than an insubstantial part of an organization's activities is not in furtherance of exempt purposes, the organization will not be regarded as exempt.

Section 1.501(c)(3)-1(d)(1)(ii) of the Regulations provides, in part, that an organization is not organized or operated exclusively for one or more of the purposes mentioned in section 501(c)(3) of the Code unless it serves a public rather than a private interest. An organization may not be exempt if it is operated for the benefit of private individuals.

Section 1.501(c)(3)-1(d)(1)(ii) of the Regulations provides, in part, that an organization is not organized or operated exclusively for one or more of the purposes mentioned in section 501(c)(3) of the Code unless it serves a public rather than a private interest. An organization may not be exempt if it is operated for the benefit of private individuals.

Revenue Ruling 85-175, 1985-2 C.B. 276 states that scholarship grants awarded under a procedure giving preference to family members or relatives of the trust's grantor are not awarded on an objective and nondiscriminatory basis as required by section 4945(g) of the Internal Revenue Code.

Like the organization described in Revenue Ruling 85-175, your organization will give preference to family members of the trust's grantor. Article 3 of the trust states that, "the trustees shall give absolute preference to the children of the nephews and nieces of the late [REDACTED]."

Therefore, we have determined that you are not operated exclusively for educational, charitable or other exempt purposes as stated in section 501(c)(3) of the Code. You also fail to meet the significant involvement requirements to be classified as a private operating foundation.

Section 53.4942(b)-1(b)(2)(i) states that if an organization does no more than select, screen and investigate applicants for grants or scholarships such grants or scholarships will not be treated as qualifying distributions made directly for the active conduct of the foundation's exempt activity. Therefore, the organization does not make qualifying distributions within the meaning of section 53.4942(a)-3(a)(2) and does not qualify as an operating foundation under section 4942 of the Internal Revenue Code.

Accordingly, we conclude that you do not meet the requirements for exempt status under section 501(c)(3) of the code and propose to deny your request for exemption under that section.

You are required to file a taxable return Form 1120 or 1041 with the District Director of Internal Revenue Service. Please send the return to the Internal Revenue Service, P.O. Box 1680, General Post Office, Brooklyn, NY 11202.


Contributions made to you are not deductible by the donors as charitable contributions as defined in section 170(c) of the Code.

If you do not agree with this determination you may protest in accordance with the enclosed instructions within 30 days.

Protests submitted which do not contain all the documentation stated in the instructions will be returned for completions.

If we do not hear from you within that time this determination will be considered final and the appropriate State Officials will be notified.

If you do not protest this proposed determination in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Internal Revenue Code provides in part that "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the district court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service."



District Director

Enclosure: Publication 892